

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

GALDERMA LABORATORIES, L.P.,
GALDERMA S.A. and
NESTLÉ SKIN HEALTH S.A.,

Plaintiffs,

v.

TEVA PHARMACEUTICALS USA, INC.,

Defendant.

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C.A. No. 17-1783 (RGA)

PROPOSED ORDER GRANTING INJUNCTION PENDING APPEAL

WHEREAS, Plaintiffs Galderma Laboratories, L.P., Galderma S.A., and Nestlé Skin Health S.A. (now known as Galderma Skin Health S.A.) (collectively, “Galderma”) having moved this Court for an injunction pending appeal [D.I. 264] (the “Motion”);

WHEREAS, the Court having considered the Motion and the parties’ submissions and arguments in support and opposition thereto;

WHEREAS, the Court set forth its findings of fact and conclusions of law in support of the injunction during the hearing on October 31, 2019 [D.I. 296], which are incorporated herein; and

WHEREAS, this Order memorializes the Court’s oral order set forth during the hearing on October 31, 2019 [D.I. 296].

IT IS HEREBY ORDERED that Galderma’s Motion is GRANTED as follows:

1. Defendant Teva Pharmaceuticals USA, Inc., its officers, agents, servants, employees, attorneys, and any other persons who are in privity, active concert, or participation with them (collectively, “Teva”) are enjoined from engaging in the commercial use, offering to sell, shipment, or the sale of the generic 1% ivermectin product described in Teva’s Abbreviated Drug Application (“ANDA”) No. 210019 (the “Accused Product”).

2. Galderma, its officers, agents, servants, employees, attorneys, and any other persons who are in privity, active concert, or participation with them, are enjoined from engaging in the commercial use, offering to sell, shipment, or the sale of its authorized generic of Soolantra (ivermectin) Cream, 1% ("Authorized Generic") and will instruct Prasco, its authorized generic partner, to cease offering to sell, shipping, or selling, the Authorized Generic.

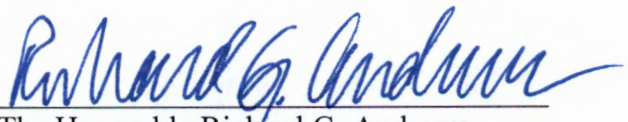
3. This injunction shall not prohibit a pharmacy or other third party who is not in privity with Teva, Galderma, or Prasco from selling any Accused Product or Authorized Generic that was released by Teva, Galderma, or Prasco, on or before October 31, 2019.

4. Galderma shall post a bond of \$40,000,000.

5. Galderma shall seek to expedite its appeal of the Court's judgment [D.I. 260].

6. This injunction shall remain in full force and effect until the earliest of: (a) further orders of this Court concerning this injunction; (b) further orders of the United States Court of Appeals for the Federal Circuit concerning this injunction; (c) or an opinion is issued from the United States Court of Appeals for the Federal Circuit disposing of Galderma's appeal, No. 19-2396. Should the United States Court of Appeals for the Federal Circuit reverse or vacate the Court's judgment [D.I. 260], then Galderma may seek preliminary injunctive relief in the District Court.

SO ORDERED this 5 day of November 2019.


The Honorable Richard G. Andrews
United States District Judge